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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,763	06/09/2006	Alan Berry	DSM_17_US	3881
59446 7590 11/17/2009 HOXIE & ASSOCIATES LLC 75 MAIN STREET, SUITE 301 MILLBURN, NJ 07041				
EXAMINER				
ROBINSON, HOPE A				
ART UNIT		PAPER NUMBER		
1652				
MAIL DATE		DELIVERY MODE		
11/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Supplemental
Notice of Allowability**

Application No.

10/567,763

Examiner

HOPE A. ROBINSON

Applicant(s)

BERRY ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/20/09.
2. ☒ The allowed claim(s) is/are 9-10 and 43-44.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Hope A. Robinson/
Primary Examiner, Art Unit 1652

SUPPLEMENTAL EXAMINER'S AMENDMENT

1. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization of this Examiner's amendment was given in a telephone interview with Mr. Jay Pattumudi on November 5, 2009 and November 12, 2009.
3. The Claims have been amended as follows:

Please **cancel** claims 1-8 and 11-42 without prejudice.

9. (Currently amended) An isolated polypeptide comprising the amino acid sequence of SEQ ID NO:16, wherein the polypeptide has [[having]] L-sorbose dehydrogenase activity, [[comprising: (i) SEQ ID NO: 16; or (ii) an amino acid sequence derivable from SEQ ID NO:16 by addition, deletion, insertion, or a conservative substitution of one or more amino acids in the amino acid sequence of SEQ ID NO: 16, wherein the conservative substitution is selected from the following substitution: Ala to Val/Leu/Ile, Arg to Lys/Gln/Asn, Asn to Gln/His/Lys/Arg, Asp to Glu, Cys to Ser, Gln to Asn, Glu to Asp, Gly to Pro/Ala, His to Asn/Gln/Lys/Arg, Ile to Leu/Val/Met/Ala/Phe/nor Leu, Lys to

Arg/Gln/Asn, Met to Leu/Phe/Ile, Phe to LeuVal/Ile/Ala/Tyr, Pro to Ala, Ser to Thr, Thr to Ser, Trp to Tyr/Phe, Tyr to Trp/Phe/Thr/Ser, and Val to Ile/Leu/Met/Phe/Ala/nor Leu.]]

10. (Currently amended) The isolated polypeptide [[according to]] of claim 9, wherein the [[isolated]] polypeptide [[sequence is]] consists of SEQ ID NO: 16, and has L-sorbose dehydrogenase activity.

43. (New) An isolated polypeptide comprising the amino acid sequence of SEQ ID NO:2, wherein the polypeptide has L-sorbose dehydrogenase activity.

44. (Currently Amended) The [[An]] isolated polypeptide [[consisting of the amino acid sequence of SEQ ID NO: 2, wherein the polypeptide has]] of claim 43, wherein the polypeptide consists of SEQ ID NO: 2, and has L-sorbose dehydrogenase activity.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Conclusion

5. Claims 9-10 and 43-44 are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HOPE A. ROBINSON whose telephone number is (571)272-0957. The examiner can normally be reached on Monday-Friday 9:00-6:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang, can be reached at (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hope A. Robinson/

Primary Examiner, Art Unit 1652



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BIB DATA SHEET

CONFIRMATION NO. 3881

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/567,763	06/09/2006	435	1652	DSM_17_US
RULE				
APPLICANTS Alan Berry, US-Manlius, NY; Connie Lee, Reykjavik, ICELAND; Anne Francoise Mayer, Basel, SWITZERLAND; Masako Shinjoh, Kanagawa, JAPAN;				
** CONTINUING DATA ***** This application is a 371 of PCT/CH04/00511 08/16/2004				
** FOREIGN APPLICATIONS ***** EUROPEAN PATENT OFFICE (EPO) 03017677.0 08/14/2003				
** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** 05/03/2007				
Foreign Priority claimed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 35 USC 119(a-d) conditions met <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Verified and Acknowledged <u>/HOPE A ROBINSON/</u> <small>Examiner's Signature</small>	<input type="checkbox"/> Met after Allowance <u>Initials</u>	STATE OR COUNTRY NY	SHEETS DRAWINGS 0	TOTAL CLAIMS 42
INDEPENDENT CLAIMS 3				
ADDRESS HOXIE & ASSOCIATES LLC 75 MAIN STREET , SUITE 301 MILLBURN, NJ 07041 UNITED STATES				
TITLE Polypeptides and Encoding Polynucleotides for Microbial Production of L-Ascorbic Acid and Associated Methods				
FILING FEE RECEIVED 2130	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:			<input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees (Filing) <input type="checkbox"/> 1.17 Fees (Processing Ext. of time) <input type="checkbox"/> 1.18 Fees (Issue) <input type="checkbox"/> Other _____ <input type="checkbox"/> Credit

WEST Search History for Application 10567763

Creation Date: 2009110515:17

(polypeptide and encoding DNA)USPT OR YES 12-10-2008
((polypeptide and encoding DNA) and (L-sorbose)USPT OR YES 12-10-2008
((polypeptide and encoding DNA) and (L-sorbose)) aehydrogenase)nd (L-sorbose
dUSPT OR YES 12-10-2008
((polypeptide and encoding DNA) and (L-sorbose)) and (L-sorbose dehydrogenase
activity)USPT OR YES 12-10-2008
berry.in.PGPB OR YES 12-10-2008
lee.in.PGPB OR YES 12-10-2008
mayer.in.PGPB OR YES 12-10-2008
shinjoh.in.PGPB OR YES 12-10-2008
(shinjoh.in.) and (mayer.in.)PGPB OR YES 12-10-2008
(shinjoh.in. and mayer.in.) and (lee.in.)PGPB OR YES 12-10-2008
DNA and vectorUSPT OR YES 12-19-2008


Interference Searches

Query	DB	Op.	Plur.	Thes.	Date
shinjoh.in.	PGPB, USPT, UPAD	OR	YES		11-05-2009
mayer.in.	PGPB, USPT, UPAD	OR	YES		11-05-2009
lee.in.	PGPB, USPT, UPAD	OR	YES		11-05-2009
(lee.in.) and (mayer.in.)	PGPB, USPT, UPAD	OR	YES		11-05-2009
(lee.in. and mayer.in.) and (shinjoh.in.)	PGPB, USPT, UPAD	OR	YES		11-05-2009

Prior Art Searches

Query	DB	Op.	Plur.	Thes.	Date
(l-sorbose dehydrogenase)	USPT	OR	YES		11-05-2009
((l-sorbose dehydrogenase)) and (polypeptide)	USPT	OR	YES		11-05-2009
(L-sorbose dehydrogenase same polypeptide)	USPT	OR	YES		11-05-2009
berry.in.	USPT	OR	YES		11-05-2009
lee.in.	USPT	OR	YES		11-05-2009
mayer.in.	USPT	OR	YES		11-05-2009
shinjoh.in.	USPT	OR	YES		11-05-2009
(shinjoh.in.) and (mayer.in.)	USPT	OR	YES		11-05-2009

(lee.in.) and (mayer.in.)	USPT	OR	YES		11-05-2009
(lee.in. and mayer.in.) and ((L-sorbose dehydrogenase same polypeptide))	USPT	OR	YES		11-05-2009

Search Notes 	Application/Control No. 10567763	Applicant(s)/Patent Under Reexamination BERRY ET AL.
	Examiner HOPE A ROBINSON	Art Unit 1652

SEARCHED			
Class	Subclass	Date	Examiner
NONE		11/5/09	HAR

SEARCH NOTES		
Search Notes	Date	Examiner
STIC sequence search in published and unpublished patents	10/28/09	HAR
STIC sequence	10/30/09	HAR
Palm Expo inventor names searched	11/5/09	HAR
WEST(attached)	11/5/09	HAR

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner
WEST Interference search		11/5/09	HAR
STIC pending search		10/29-10/30	HAR

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